

PERSONNELGrievances and Grievance Procedures: Supervisory and
Service EmployeesA. Supervisory Employees

1. Definition

Supervisory employees include principals, assistant principals and other persons employed full-time in a supervisory position who are required by the Virginia Board of Education to hold a certificate to be employed in that capacity excluding the division superintendent.

2. Procedure for Dismissal or Placement on Probation

The procedure is mandated at Part III of Virginia Board of Education regulations as quoted in division regulation #R5-3 "Procedure for Adjusting Grievances."

Editor's Note

For informal meetings prior to reassignment to a teaching position see the legal reference to school board policy #3-43.

B. Service Employees

1. Definition

"Service employees" is defined as that group of the school board's employees whose members do not hold certificates as promulgated by the Virginia Board of Education.

2. Applicability

All division employees, other than the superintendent, who have successfully completed a probationary period and are not covered by division regulation #R5-3 shall have access to the following grievance procedures for matters specified as grievable.

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3. Grievable Matters

These grievance procedures shall apply to dismissal, suspension, placement on probation and other disciplinary actions taken against an employee.

Nonselection for promotion, the substance of critical elements and performance standards of an employee's position and performance awards are not considered disciplinary matters and are not covered by these procedures.

The determination as to whether a particular matter is grievable will be made by the superintendent. In instances in which the superintendent has made the recommendation giving rise to the grievance, the determination of grievability will be made by the school board.

4. Procedures

- a. Prior to filing a written grievance, an employee must attempt to resolve the complaint informally with his or her immediate supervisor. It is the employee's responsibility to see the supervisor in a timely manner so that time remains to file the written grievance within the limit specified.
- b. If no resolution is obtained as a result of the discussion with the immediate supervisor, the employee may file a written grievance with the superintendent or designee. This grievance must be filed within seven (7) days of notice of the action giving rise to the grievance. The written grievance must specify the action complained of, the date it occurred, and the relief requested.

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4. Procedures (continued)

- c. A hearing must be held between the employee and the superintendent or designee within five (5) days of the receipt of the written grievance. The employee's failure to make himself or herself available within that time period shall cause the grievance to terminate. At the hearing with the superintendent or designee, the employee will have a right to be represented and to present evidence. If the employee intends to be represented at the hearing, notice of the representation must be given one (1) day in advance. The supervisory employee making the recommendation for the disciplinary action will also attend to present evidence in support of the recommendation. The superintendent's or designee's decision shall be issued within five (5) days of the hearing.
- d. In those cases in which the superintendent made the recommendation for the disciplinary action, the employee shall have a right to a hearing before the school board in lieu of a hearing before the superintendent or designee. The school board shall hold the hearing at its next regularly scheduled school board meeting or may hold a special meeting at the school board's option. The school board's decision shall be issued within ten (10) days of the hearing.
- e. These procedures shall be followed by the school board when an affected person requests a hearing to appeal an administrative decision.

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4. Procedures (continued)

- (1) Both parties (the appellant and the administrator) should exchange any written materials to be used and submit copies to the board prior to the hearing.
- (2) The board will instruct the appellant that its function is to review the superintendent's decision and to reverse it only in a case where it appears to a majority of the members present that the decision of the superintendent is not supported by substantial evidence.
- (3) The appellant, or representative, will then explain to the board why the action of the superintendent should not be sustained, calling witnesses or otherwise putting on such evidence as is desired.
- (4) Administrators will then state the basis for their action, calling witnesses and providing such evidence as is desired.
- (5) Testimony should be informal, and may be in narrative form. Testimony may be developed by direct or cross-examination.
- (6) The school board's decision shall be final and shall be issued within ten (10) days of the hearing.

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4. Procedures (continued)

- (7) A copy of this regulation will be forwarded to the appellant as an enclosure to the advance written notice of the hearing.

5. Annexations

Timelines specified in this procedure may be extended by mutual agreement of the parties.

If some action is required to take place on a weekend or central office holiday, the action will be delayed to the next central office working day.

The determination as to whether an employee has complied with these procedures will be made by the superintendent.

Nothing in this regulation shall be construed as granting an employee on a term contract the right to employment beyond the term of his or her contract or to grant, such person a property interest in employment beyond the term of his or her present contract.

Editor's Note

For teacher grievances see division regulation #R5-3.

For Title IX/Section 504 grievances see division regulation #R5-3.1.

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Legal Reference: Through June 30, 1997

Code of Va., §22.1-79. Powers and duties.—"A school board shall:

1. See that the school laws are properly explained, enforced and observed;

2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public schools in the school division and take care that they are conducted according to law and with the utmost efficiency;

3. Care for, manage and control the property of the school division and provide for the erecting, furnishing, equipping, and noninstructional operating of necessary school buildings and appurtenances and the maintenance thereof by purchase, lease, or other contracts;

4. Provide for the consolidation of schools or redistricting of school boundaries or adopt pupil assignment plans whenever such procedure will contribute to the efficiency of the school division;

5. Insofar as not inconsistent with state statutes and regulations of the Board of Education, operate and maintain the public schools in the school division and determine the length of the school term, the studies to be pursued, the methods of teaching and the government to be employed in the schools;

6. In instances in which no grievance procedure has been adopted prior to January 1, 1991, establish and administer by July 1, 1992, a grievance procedure for all school board employees, except the division superintendent and those employees covered under the provisions of Article 2 (§22.1-293 et seq.) and Article 3 (§22.1-306 et seq.) of Chapter 15 of this title, who have completed such probationary period as may be required by the school board, not to exceed eighteen months. The grievance procedure shall afford a timely and fair method of the resolution of disputes arising between the school board and such employees regarding dismissal, suspension, or other disciplinary actions and shall be consistent with the provisions of the Board of Education's procedures for

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adjusting grievances except that there shall be no right to a hearing before a fact-finding panel;

7. Perform such other duties as shall be prescribed by the Board of Education or as are imposed by law; and

8. Obtain public comment through a public hearing not less than ten days after reasonable notice to the public in a newspaper of general circulation in the school division prior to providing (i) for the consolidation of schools; (ii) the transfer of the administration of all instructional services for any public school classroom in the school division pursuant to a contract with any private entity or organization; or (iii) in school divisions having 15,000 pupils or more in average daily membership, for redistricting of school boundaries or adopting any pupil assignment plan affecting the assignment of fifteen percent or more of the pupils in average daily membership in the affected school. Such public hearing may be held at the same time and place as the meeting of the school board at which the proposed action is taken if the public hearing is held before the action is taken. If a public hearing has been held prior to the effective date of this provision on a proposed consolidation, redistricting or pupil assignment plan which is to be implemented after the effective date of this provision, an additional public hearing shall not be required. (Code 1950, §§22-72, 22-97; 1954, cc. 289, 291; 1956, Ex. Sess., c. 60; 1959, Ex. Sess., c. 79, §1; 1966, c. 691; 1968, c. 501; 1970, c. 71; 1971, Ex. Sess., c. 161; 1972, c. 511; 1975, cc. 308, 328; 1980, c. 559; 1985, c. 8; 1987, c. 402; 1991, cc. 553, 668; 1994, c. 596; 1996, cc. 485, 790, 798.)

Approved by Division Superintendent: June 9, 1992